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10/600,643	06/23/2003	Eduard Erhardt	Q76086	6122
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SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037			EXAMINER PATEL, CHIRAG R	
			ART UNIT	PAPER NUMBER
			2141	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/600,643

Applicant(s)

ERHARDT, EDUARD

Examiner

Chirag R. Patel

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 August 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6, 8 and 9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8 and 9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 June 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Response to Arguments

Applicant's arguments filed August 20, 2007 have been fully considered but they are not persuasive. A discussion is provided below. Examiner notes that claim 7 is cancelled by the applicants and the 112 1st /2nd issue is removed.

Examiner assert that Midgley discloses per (Col 12 line 53 – Col 13 line 16) "In parallel with the synchronization process, the dynamic replication process may proceed wherein as source data files are modified, the changes are written into a journal file by an agent process operating on an associated server, and the journal file entries are transmitted to the backup server where the changes may be written to the corresponding target data files." Receipt of data is limited on the associated server , and transmission of the data is limited to the backup server, which is broadly interpreted as the second server. Examiner further asserts the Midgley discloses per Col 7 lines 5-34, and per Figure 1: item 10 a conventional computer network system, in which the devices send and receive data from the same network system.

Radatti was relied upon to disclose per Col 7 lines 10-35, "prohibiting a user from deleting or editing validated macros; prohibiting all macros from running; etc)" and this meets the recited claim limitations "non-verified or non-verifiable data received by the first computer only in non-processable form." Examiner has read the claim in light of the specification as applicant's disclosure per [0013] macros as non-verifiable data, "Data received by the computer 1 from the data communications network 6, e.g., e-mail messages, are only selectively forwarded to the second computer 2 in the context of the data exchange (e.g., address of sender, "subject" text) and only to the extent that the

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data can be completely verified (e.g., text formats, but not macros)." Applicant's disclosure disclose "Non-verifiable received data and new data, which are generated by processing the non-verifiable data in the computer 1, are transmitted only in locked or sealed form to the second, redundant computer 2 in the context of the data exchange."

Specification

The disclosure is objected to because of the following informalities: See discussion under drawings. Appropriate correction is required.

Drawings

The drawings are objected to because the drawing does not list a figure number. Examiner suggest labeling the single drawing "Figure 1" and changing the specification [0010] "*Figure 1 depicts* a computer system which is describe with reference to an exemplary embodiment" and changing [0011] to "The exemplary computer system, which is depicted in *Figure 1* as a function block diagram ..." or equivalent.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The *figure or figure number* of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet,

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and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4 and 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Midgley et al. – hereinafter Midgley (US 6,526,418) in view of Radatti et al. – hereinafter Radatti (US 7,093,135).

As per claim 1, Midgley discloses a computer system connected to a data communications network, comprising:

a first computer; (Col 4 line 29 – Col 5 line 3)

a second, redundant computer that is independent of the first computer;

wherein the first computer is configured to match with the second computer by comparing a first work result of the first computer with a second work result of the second computer; (Col 4 line 29 – Col 5 line 3; creating backup files for a plurality of data files stored on a server on a computer network, may compare the image signal to a corresponding image signal that is either stored or created on the backup server to detect a change in the state of the data structure or in the state of a portion of the data structure)

wherein receipt of data from the data communications network is limited to the first computer; (Col 4 line 29-Col 5 line 3)

wherein transmission of data to the data communications network is limited to the second computer; (Col 4 line 29-Col 5 line 3)

wherein at least an initial processing of the data received from the data communications network is limited to the first computer; and (Col 12 lines 22-52)

Midgley discloses wherein the first computer is configured to transmit and store data in a second computer. (Col 12 line 53 – Col 13 line 16) Midgley fails to disclose wherein the first computer is configured to transmit to and store in the second computer non-verified or non-verifiable data received by the first computer only in non-processable form. Radatti discloses wherein the first computer is configured to transmit to and store in the second computer non-verified or non-verifiable data received by the first computer only in non-processable form. (Col 7 lines 10-35; prohibiting a user from deleting or editing validated macros; prohibiting all macros from running; etc.) At the time the invention was made, it would have been obvious to a person of ordinary skill in

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the art to disclose wherein the first computer is configured to transmit to and store in the second computer non-verified or non-verifiable data received by the first computer only in non-processable form in the disclosure of Midgley. The motivation for doing do would have been to identify and secure code, as well as provide virus detection and code authentication (Col 2 lines 50-55)

As per claim 2, Midgley / Radatti disclose the computer system as claimed in claim 1. Midgley fails to disclose wherein the first computer is configured to verify the received data in the first computer, and wherein the first computer is configured to supply only verified data to the second computer in processable form. Radatti discloses wherein the first computer is configured to verify the received data in the first computer, and wherein the first computer is configured to supply only verified data to the second computer in processable form. (Col 7 lines 40-50; Virus macro removed, Probable virus macro removed, Unauthorized macro removed) At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to to verify the received data in the first computer, and wherein the first computer is configured to supply only verified data to the second computer in processable form in the disclosure of Midgley. The motivation for doing do would have been to identify and secure code, as well as provide virus detection and code authentication (Col 2 lines 50-55) .

As per claim 3, Midgley / Radatti disclose the computer system as claimed in claim 1. Midgley disclose wherein the first computer and the second computer are

configured to independently verify the received data, and wherein only matching verified data are stored in the second computer in processable form. (Col 12 line 53 – Col 13 line 15; the back up system may compare the source files metadata and, may compare its contents)

As per claim 4, Midgley / Radatti disclose the computer system as claimed in claim 1. Midgley discloses further comprising: a central data memory, wherein direct access to internal data of the computer system contained in a central data memory is limited to the second computer; and wherein the first computer is configured to receive the internal data only upon request via the second computer. (Col 4 line 29-Col 5 line 20, Col 6 lines 1-21)

As per claim 6, Midgley discloses a method, comprising: in a first computer, classifying data received from a data communications network as verified data and non-verified data, and producing a first work result representing the verified data;

in the second computer, independently verifying the verified data forwarded from the first computer and producing a second work result based on the independent verification; comparing the first work result with the second work result; and if the first work result and the second work result match, storing the verified data in the second computer. (Col 4 line 29 – Col 5 line 3; creating backup files for a plurality of data files stored on a server on a computer network, may compare the image signal to a corresponding image signal that is either stored or created on the backup server to

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detect a change in the state of the data structure or in the state of a portion of the data structure)

wherein receipt of data from the data communication network is limited to the first computer and wherein transmission of the data communications network is limited to the second computer. (Col 12 line 53 – Col 13 line 16)

Midgley fails to disclose forwarding the verified data in processable form and the non-verified data in non-processable form from the first computer to a second computer. Radatti discloses forwarding the verified data in processable form and the non-verified data in non-processable form from the first computer to a second computer. (Col 7 lines 10-50; prohibiting a user from deleting or editing validated macros; prohibiting all macros from running; etc.; Virus macro removed, Probable virus macro removed, Unauthorized macro removed) At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to disclose discloses forwarding the verified data in processable form and the non-verified data in non-processable form from the first computer to a second computer in the disclosure of Midgley. The motivation for doing so would have been to identify and secure code, as well as provide virus detection and code authentication (Col 2 lines 50-55).

As per claim 7, Midgley / Radatti disclose the method of claim 6. Midgely discloses the method of claim 6, wherein only the first computer receives data from the data communications network and only the second computer transmits data to the data communications network. (Col 2 lines 3-20; Col 18 lines 29-48)

As per claim 8, Midgley / Radatti disclose the method of claim 6. Midgley discloses wherein only the second computer directly accesses internal data contained in a central data memory, and wherein the first computer indirectly accesses the internal data only upon request via the second computer. (Col 4 line 29 – Col 5 line 3, Col 18 lines 29-48)

Claims 5 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Midgley et al. – hereinafter Midgley (US 6,526,418) / Radatti et al. – hereinafter Radatti (US 7,093,135) in view of Mosher, Jr. et al. – hereinafter Mosher, Jr. (US 5,799,323)

As per claims 5 and 9, Midgley / Radatti disclose the computer system as claimed in claim 1. Midgley fails to disclose further comprising:

an independent, redundant third computer; and wherein the second computer is configured to match with the third computer by comparing the second work result of the second computer with a third work result of the third computer. Mosher Jr. discloses an independent, redundant third computer; and wherein the second computer is configured to match with the third computer by comparing the second work result of the second computer with a third work result of the third computer. (Col 26 lines 6-26) At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to an independent, redundant third computer; and wherein the second computer is configured to match with the third computer by comparing the second work result of

the second computer with a third work result of the third computer. Mosher Jr. discloses an independent, redundant third computer; and wherein the second computer is configured to match with the third computer by comparing the second work result of the second computer with a third work result of the third computer in the disclosure of Midgley. The motivation for doing do would have been to provide triple contingency protection in the rare event of a primary system failure (Col 3 lines 10-22)

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chirag R Patel whose telephone number is (571)272-7966. The examiner can normally be reached on Monday to Friday from 7:30AM to 4:00PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia, can be reached on (571) 272-3880. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pairedirect.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).

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C.P. C.P.



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